

## 104 CMR: DEPARTMENT OF MENTAL HEALTH

### 104 CMR 34.00: CRIMINAL OFFENDER RECORD CHECKS

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#### 34.01: Purpose

The purpose of 104 CMR 34.01 *et seq.* is to establish standardized procedures for the Department of Mental Health (Department) and its vendor agency programs and facilities regarding the review of criminal records of candidates for employment or regular volunteer or training positions at these programs and facilities. The Criminal History Systems Board (CHSB) has authorized Executive Office of Health and Human Services (EOHHS) agencies and their vendor agency programs and facilities to receive criminal record information regarding present or prospective employees in any program funded or operated by such agencies.

#### 34.02: Policy

In order to ensure that employees or other persons regularly providing services or support to any program or facility of the Department or in vendor agency programs or facilities are appropriate for serving in their positions with potential for unsupervised contact, a Criminal Offender Record Information (CORI) check shall be performed on all candidates. It is the policy of EOHHS and the Department that convictions of certain crimes pose an unacceptable risk to the vulnerable populations served by the Department and its vendor agency programs and facilities. 104 CMR 34.00 sets forth minimum standards.

#### 34.03: Scope

104 CMR 34.00 applies to applicants for positions which entail potential unsupervised contact in the Department and its vendor agency programs and facilities, including volunteers and trainees. At the discretion of the hiring authority, the scope of 104 CMR 34.00 may be

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expanded to include employees, volunteers, interns, students or other persons regularly offering support to any Department or vendor agency program or facility in either a paid or unpaid capacity, whose services do not entail the potential for unsupervised contact, upon appropriate certification by CHSB.

### 34.04: Authority

104 CMR 34.00 is promulgated pursuant to M.G.L. c. 19, § 18 and M.G.L. c. 123, § 2.

### 34.05: Definitions

Applicant: Any person seeking employment or a position as a regular volunteer or trainee to provide services for or on behalf of the Department or its vendor agency programs or facilities, where such employment or position involves potential unsupervised contact with program or facility clients. Employment includes but is not limited to placement in: state positions; federal positions; positions funded by grants, bonds or other capital outlay; and positions in vendor agency programs and facilities.

Candidate: Any person receiving a conditional offer for employment or a position as a regular volunteer or trainee, subject to consideration of any criminal record, to provide services for or on behalf of the Department or its vendor agency programs and facilities, where such employment or position involves potential unsupervised contact with program or facility clients. Employment includes but is not limited to placement in: state positions; federal positions; positions funded by grants, bonds or other capital outlay; and positions in vendor agency programs and facilities.

Commissioner: The Commissioner of Mental Health.

Community Service Worker: Any individual who, as a condition of probation, is applying to be a candidate.

CORI Cleared Employee: Any candidate hired as an employee after successfully satisfying the requirements of 104 CMR 34.00.

CORI Coordinator: The person designated by the hiring authority to send requests and receive responses from the CHSB EOHHS CORI Unit.

CORI Investigation: The process of requesting, receiving and evaluating CORI related to candidates for positions with the Department or a vendor agency program or facility.

Criminal History Systems Board (CHSB) EOHHS CORI Unit: The EOHHS-sponsored unit within the Criminal History Systems Board which processes requests for CORI information from EOHHS agencies and offers technical assistance with any question arising from the results of a search.

Criminal Justice Official: Either the candidate's probation officer, parole officer or correctional facility superintendent (or designee), depending upon the person having the most recent responsibility for supervision of the candidate. In cases where the candidate was last supervised

in a correctional facility, the candidate may advise the hiring authority of any employee of the correctional facility who may have specific information about the candidate that would assist the superintendent or designee in his/her assessment process.

Criminal Offender Record Information (CORI): Information regulated by the Criminal History Systems Board and maintained by the Board of Probation regarding the criminal histories of persons within the Massachusetts Court system.

Department: The Department of Mental Health.

Discretionary Disqualification: A candidate shall be ineligible for a position that entails potential unsupervised contact with persons receiving services at a Department or vendor agency program or facility if he or she has been convicted of or has pending any charge for any crime in 104 CMR 34.17: *Table B* or *Table C*, unless the hiring authority has complied with the provisions of 104 CMR 34.12.

Hiring Authority: The person legally authorized or designated to make hiring decisions within the affected agency, department, office, program, or facility.

Lifetime Presumptive Disqualification: A category of offenses, compiled as 104 CMR 34.17: *Table A*, for which conviction of any such offense results in a presumption of a lifetime disqualification for a position which entails potential unsupervised contact with persons receiving services in a Department or vendor agency program or facility, due to the presumed unacceptable risk posed by the nature of the crime to persons receiving services. A lifetime presumptive disqualification shall become a discretionary disqualification if:

- (a) the candidate's criminal justice official concludes in writing that the candidate, within the position sought, does not pose an unacceptable risk of harm to persons served by the program or facility; or
- (b) if the criminal justice official has been determined by the hiring authority to be unavailable or has indicated to the hiring authority that he or she has insufficient information to render an assessment, then the hiring authority shall, at the candidate's request, seek an assessment of the candidate's risk of harm from a qualified mental health professional and, upon assessment, the qualified mental health professional concludes in writing that the candidate, within the position sought, does not pose an unacceptable risk of harm to the persons served by the program or facility.

No Record: The conclusion from a CORI search that convictions or pending charges relating to the candidate have not been found. A finding of "no record" does not necessarily mean, however, that criminal information is not present in the CORI database.

Pending: A criminal offense shall be considered pending if the CORI report indicates that the offense remains open and without final resolution, including that the case has been continued without a finding.

Position: Employment, or service by a regular volunteer or trainee.

Potential Unsupervised Contact: Potential for contact with a person who is receiving or

applying for services in a Department or vendor agency program or facility when no other CORI cleared employee is present. A person having only the potential for incidental unsupervised contact with clients in commonly used areas such as elevators, hallways and waiting rooms shall not be considered to have the potential for unsupervised contact for purposes of 104 CMR 34.00. These excluded areas do not include bathrooms and other isolated areas (not commonly utilized or separated by sight and sound from other staff) that are accessible to clients.

Qualified Mental Health Professional: A psychiatrist, licensed to practice medicine under M.G.L. c. 112, § 2, a psychologist, licensed under M.G.L. c. 112, §§ 118 through 121, or a licensed independent clinical social worker licensed under M.G.L. c. 112, §§ 130 through 132; provided that the psychiatrist, psychologist, or licensed independent clinical social worker has at least 1,000 hours of experience over a minimum of two years involving assessment, treatment, and consultation concerning individuals with behavior that presents a risk of harm to others in the community, in the workplace, in treatment settings, or in correctional facilities; provided further that the psychiatrist, psychologist, or licensed independent clinical social worker has not provided treatment to the candidate.

Trainee: Any person enrolled in an academic program or participating in a pre- or post-doctoral training program that is affiliated with an accredited educational institution or hospital, who receives a placement within the Department or a vendor agency program or facility.

Vendor Agency Program or Facility: An individual, corporation, partnership, trust, association or other entity contracted by the Department to provide services to persons served by the Department.

Volunteer: Any person who works in an unpaid capacity on a regular basis for the Department or a vendor agency program or facility. For the purposes of 104 CMR 34.05: Volunteer, a current client at a facility or program who provides unpaid services at that facility or program shall not be considered a volunteer at that facility or program.

Work Release Program: A program of unpaid work performed by any individual who is under the custody of the state or county correctional system.

#### 34.06: Applicant Disclosure of Criminal Record Information

All applicants for a position in the Department or a vendor agency program or facility shall complete an application form that contains a section requiring the candidate to disclose whether or not he or she has a criminal record and what crimes, if any, he or she has been convicted of, consistent with M.G.L. c. 151B, § 4, para 9. The application shall not require an applicant to disclose:

- (a) an arrest, detention, or disposition regarding any violation of law in which no conviction resulted; or
- (b) a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the peace; or
- (c) any conviction of a misdemeanor where the date of such conviction or the completion of any period of incarceration resulting therefrom, whichever date is later, occurred five or more years prior to the date of such application or such request for information, unless such

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person has been convicted of any offense within five years immediately preceding the date of such application or such request for information. No application shall be considered complete unless the candidate completes this section.

### 34.07: Community Service and Work Release Workers

Any Department or vendor agency program or facility that participates in either a criminal justice related community service program or a work release program shall require all individuals who participate to disclose his or her criminal record in conformance with 104 CMR 34.06 on a form signed by the candidate's criminal justice official. In addition, as a condition of participation, the candidate's criminal justice official must conclude in writing that the individual will not pose an unacceptable risk to clients of the program or facility, or the community service program or work release program will take responsibility for providing supervision for the individual at all times.

### 34.08: Hiring Authority Responsibilities

(1) The hiring authority shall ensure that each applicant provides consent to a CORI investigation as part of his or her application and to the periodic conduct of further CORI investigations during the course of employment with the Department or a vendor agency program or facility. The hiring authority shall also inform the candidate that his or her CORI may be utilized by the criminal justice official or qualified mental health professional conducting themselves in conformance with 104 CMR 34.07, 34.11 and 34.12, and Department personnel responsible for carrying out the provisions of 104 CMR 34.12, 34.14 and 34.15. Such consent and notification shall be included in the hiring authority's employment application form.

(2) The hiring authority shall require, as a condition of an offer of employment, the satisfactory completion of the CORI investigation. The hiring authority shall confirm an offer of employment only after the hiring authority receives written confirmation that the criminal record investigation has resulted in a finding of "no record" or until the hiring authority has complied with the requirements of 104 CMR 34.09, 34.10, 34.11 and 34.12.

(3) The hiring authority shall not permit any candidate to commence employment or other service until after the candidate is cleared as a result of the CORI investigation, in accordance with 104 CMR 34.00.

### 34.09: CORI Investigations

(1) All applicants shall complete the CORI authorization form.

(2) After the hiring authority makes a conditional offer of a position to an individual, subject to consideration of any criminal record, the completed CORI authorization form or electronic equivalent shall be forwarded to the CHSB EOHHS CORI Unit, in accordance with the policies of the CHSB.

(3) All CORI investigations that result in a finding of "no record" shall be transmitted back to the hiring authority and shall provide sufficient evidence of suitability for hire for 60 business

days. A “no record” finding may be used to establish suitability for other positions during this 60 day period.

(4) All CORI investigations that show findings of criminal records shall be sent immediately to the hiring authority for review and action consistent with 104 CMR 34.00.

#### 34.10: Findings from CORI Investigations

(1) If the CORI investigation reveals a finding of “no record,” such finding shall be documented in the candidate’s file.

(2) If the CORI investigation reveals:

(a) a “lifetime presumptive disqualification” on the candidate’s record, as specified in 104 CMR 34.11(1), the candidate shall be informed by the hiring authority that he or she is ineligible for any position in the Department or a vendor agency program or facility where there is potential unsupervised contact with persons applying for or receiving services, unless there is compliance with the provisions of 104 CMR 34.11 and 34.12;

(b) a crime that is a “discretionary disqualification” on the candidate’s record, the candidate shall be informed by the hiring authority that he or she is ineligible for any position in a Department or vendor agency program or facility where there is potential unsupervised contact with persons applying for or receiving services, unless there is compliance with the provisions of 104 CMR 34.12.

(3) If the CORI investigation reveals an outstanding warrant for any offense on the candidate’s record, the candidate shall be informed by the hiring authority that he or she is ineligible for any position in a Department or vendor agency program or facility where there is potential unsupervised contact with persons applying for or receiving services until the warrant is removed.

#### 34.11: Disqualifications

(1) Lifetime Presumptive Disqualification. A candidate shall be ineligible for a position in the Department or a vendor agency program or facility which entails potential unsupervised contact with persons receiving services if he or she has been convicted of any of the crimes listed in 104 CMR 34.17: *Table A*, or has any pending charges involving crimes in 104 CMR 34.17: *Table A*, unless:

- (a) 1. the candidate’s criminal justice official concludes in writing that the candidate, within the position sought, does not pose an unacceptable risk of harm to the persons served by the program or facility; or
2. if the candidate’s criminal justice official has been determined by the hiring authority to be unavailable or has indicated to the hiring authority that he or she has insufficient information to render an assessment, then the hiring authority may seek an assessment (the cost of which shall be borne by the hiring authority) of the candidate’s risk of harm from a qualified mental health professional and, upon assessment, the qualified mental health professional concludes in writing that the candidate, within the position sought, does not pose an unacceptable risk of harm to the persons served by the program; and
- (b) the hiring authority has complied with the provisions of 104 CMR 34.12.

(2) Discretionary Disqualification. A candidate shall be ineligible for a position in the Department or a vendor agency program or facility if he or she has been convicted of any of the crimes listed in 104 CMR 34.17: *Table B* or *Table C*, unless the hiring authority has complied with the provisions of 104 CMR 34.12.

34.12: Provisions for Review of a Candidate in any Discretionary Disqualification Category

(1) The criminal history of every candidate for whom the CORI investigation reveals a “lifetime presumptive disqualification,” who has otherwise met the requirements for further consideration set forth in 104 CMR 34.11, or a “discretionary disqualification” shall, unless the hiring authority has decided to withdraw the conditional offer of a position, receive additional review by the hiring authority to determine if the candidate poses an unacceptable risk of harm to the persons served by the program or facility within the position sought. In reviewing the candidate’s appropriateness for a position given the concern for client safety, due weight shall be given to the following factors:

- (a) Time since the conviction;
- (b) Age of the candidate at the time of the offense;
- (c) Seriousness and specific circumstances of the offense;
- (d) The nature of the work to be performed;
- (e) The number of offenses;
- (f) Any relevant evidence of rehabilitation or lack thereof;
- (g) Any other relevant information, including information submitted by the candidate or requested by the hiring authority.

Information considered pursuant to 104 CMR 34.12(1)(g) may include documentation from the candidate’s criminal justice official, if not already supplied pursuant to 104 CMR 34.11(1), treating professional, or other knowledgeable source, such as the police, courts, or prosecuting attorneys.

(2) Following the review, the hiring authority shall determine whether:

- (a) To hire the candidate based upon a determination that the candidate does not pose a danger to the program’s or facility’s clients; or
- (b) To not hire the candidate.

Nothing herein shall be construed as preventing the hiring authority from deciding not to hire the candidate for any other reason.

(3) If a decision is made to hire the candidate, the hiring authority shall make a written determination of such decision, documenting the considerations outlined in 104 CMR 34.12(1)(a) through (g), and the rationale for the conclusion that the candidate does not pose a danger to the program’s clients within the position sought.

(4) The hiring authority shall submit such written documentation to the Department immediately upon a decision to hire the individual.

- (a) If the candidate has been convicted of or has a pending charge for any of the crimes listed in 104 CMR 34.17: *Tables A* and *B*, the hiring authority shall not proceed to hire the individual for five business days during which time the Commissioner may, after review of the determination, disapprove the hire.

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(b) If the candidate has been convicted of or has a pending charge for any offense in 104 CMR 34.17: *Table C*, the hiring authority may proceed to hire the individual, unless the provisions of 104 CMR 34.12(6) apply.

(5) The Department shall conduct an annual review of such written determinations for candidates with crimes listed in 104 CMR 34.17: *Table C* to ensure compliance with the requirements of 104 CMR 34.10, 34.11, and 34.12.

(6) Based on the annual review pursuant to 104 CMR 34.12(5) or other relevant information obtained by the Department that raises concerns about the hiring authority's compliance with these requirements, the Department may require the hiring authority to submit such written determinations prior to hiring the individual. The Commissioner shall have five business days following receipt of the determination to disapprove the hire. The Department may require the hiring authority to follow such prior review process for as long a period as it determines is necessary to ensure that the hiring authority is complying with the requirements of 104 CMR 34.10, 34.11, and 34.12.

### 34.13: Exemption from Certain Requirements

The Commissioner may grant a Department-operated or vendor agency program or facility an exemption from the requirements of 104 CMR 34.12(4)(a) upon a determination by the Department that an exemption is warranted following consideration of the following criteria:

- (1) the service needs and level of vulnerability of the clients served by the program;
- (2) the potential benefits and risks to those clients as a result of the exemption;
- (3) the hiring authority's capacity to perform the review required by 104 CMR 34.12.

Whenever the Commissioner grants the exemption, he or she shall document, in writing, the basis for determining that the exemption is warranted, including providing its assessment of the level of vulnerability of the clients served by the program. The Commissioner may revoke the exemption at any time and without prior notice. No program shall be eligible for an exemption pursuant to this section if it serves clients 16 years of age or younger or if it serves a population that is primarily 65 years of age or older.

### 34.14: Dissemination

CORI records may be disseminated only to individuals certified by the CHSB to receive such information, such as designated representatives of the hiring authority or the CORI Coordinator. The hiring authority shall maintain a listing of persons so certified. Willful dissemination of Criminal Offender Record Information to unauthorized individuals is punishable by a jail sentence of up to one year and/or a fine of \$5,000 in addition to civil penalties, pursuant to M.G.L. c. 6, § 178.

### 34.15: Incidents



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Any hiring authority receiving an allegation that an employee with a positive CORI history has harmed a client in a Department or vendor agency program or facility shall immediately report the allegation to the General Counsel of the Department. Upon request, the hiring authority shall provide the Department with documentation of the basis for the hiring decision.

### 34.16: Severability

If any provisions of 104 CMR 34.01 through 34.15, or the applications of such provisions to any person or circumstance are held invalid, the other provisions of 104 CMR 34.01 through 34.15, or the application of such provisions to any person or circumstance other than that as to which it is held invalid, shall not be affected thereby.

### 34.17: Tables of Offenses

The offenses included in the following 104 CMR 34.17: *Tables A, B, and C* are to be construed as including all violations of Massachusetts law or like violations of the law of another state, the United States, or a military, territorial, or Indian tribal authority.

The hiring authority shall contact the CHSB EOHHS CORI Unit whenever a CORI investigation reveals an offense that is not included in any of the tables and it appears similar in seriousness to included offenses. The CHSB EOHHS CORI Unit, in consultation with the EOHHS General Counsel, shall determine, taking into account the purposes of 104 CMR 34.00, if the offense is similar to one of the included offenses. If it is determined to be similar, then it shall be considered to be included in the same table as the included offense. If it is determined to be dissimilar, then it shall be considered for inclusion into the appropriate table through the regulatory process.

Nothing herein shall preclude the hiring authority from considering any criminal conviction not included in any of the tables

#### Table A

#### MGL

A&B, Dangerous Weapon, Vict 60+	c. 265, § 15A(a)
A&B Child w/Injury	c. 265, § 13J
A&B on Retarded Person	c. 265, § 13F
Administering Drugs/Sex	c. 272, § 3
Armed Assault w/Intent to Murder or Rob	c. 265, § 18(b)
Armed Assault w/Intent to Murder or Rob, Vict 60	c. 265, § 18(a)
Armed Assault, Dwelling, w/Felony Intent	c. 265, § 18A
Armed Carjacking	c. 265, § 21A
Armed Robbery	c. 265, § 17
Assault w/Intent to Murder or Maim	c. 265, § 15
Assault w/Intent to Rape	c. 265, § 24
Assault w/Intent to Rape Child	c. 265, § 24B
Attempt Escape or Escape by Prisoner or Sex/Dang	c. 268, § 16
Attempt to Murder	c. 265, § 16
Burning Dwelling House	c. 266, § 1
Distribute Controlled Substan, Minor	c. 94C, § 32F
Exhibit Posing Child	c. 272, § 29A

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Extortion	c. 265, § 25
Home Invasion	c. 265, § 18C
Incest	c. 272, § 17
Indecent A&B, Child 14 or Over	c. 265, § 13H
Indecent A&B, Child under 14	c. 265, § 13B
Indecent A&B, Retarded Person	c. 265, § 13F
Induce Minor to Prostitution	c. 272, § 4A
Intimidation of Witness	c. 268, § 13B
Kidnapping	c. 265, § 26
Malicious Explosion	c. 266, § 101
Manslaughter, Negligence (Minor/Child)	c. 265, § 13
Manslaughter	c. 265, § 13
Mayhem	c. 265, § 14
Murder	c. 265, § 1
Perjury	c. 268, § 1
Rape	c. 265, § 22(b)
Rape Aggravated	c. 265, § 22(a)
Rape, Statutory	c. 265, § 23
Trafficking in Cocaine	c. 94C, § 32E(b)(4)
Trafficking in Heroin	c. 94C, § 32E(c)(4)
Trafficking in Marijuana	c. 94C, § 32E(a)(4)
Unnatural Acts w/Child under 16	c. 272, § 35A

Conspiracy to Commit any of above Offenses  
 Accessory Before any Crime in this Category  
 Attempts to Commit any Crime in this Category

### Table B

A& B Dangerous Weapon
A&B Intimidation, Race/Color/Religion
Accessory after Fact (variable)
Aid Escape from Custody
Assault by Dangerous Weapon
Assault by Dangerous Weapon, Victim 60 and Older
Attempt to Burn Dwelling House
Attempted Extortion
Bomb Scare
B&E Day, Intent Comm Felony
B&E Day, Intend Comm Felony, Fear
B&E Night, Bldg/Ship/M/V, Intend Comm Felony
B&E Truck, Intend Comm Felony
Bribery of a Police Officer
Burglary, Armed
Burglary, Unarmed
Burning Building
Burning M/V or Personal Property

### MGL

c. 265, § 15A
c. 265, § 39(a)
c. 274, § 4
c. 268, § 17
c. 265, § 15B(b)
c. 265, § 15B(a)
c. 266, § 5A
c. 265, § 25
c. 269, § 14
c. 266, § 18
c. 266, § 17
c. 266, § 16
c. 266, § 20A
c. 268, § 2
c. 266, § 14
c. 266, § 15
c. 266, § 2
c. 266, § 5

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Burning to Defraud Insurance Co.	c. 266, § 10
Carrying Dangerous Weapon, Committing Felony	c. 269, § 10(b)
Carrying Dangerous Weapon, Sub Offense	c. 269, § 10(d)
Carrying Loaded Rifle/Shotgun, Public Way	c. 269, § 12d
Civil Rights Violation, Bodily Injury	c. 265, § 37
Compounding Felony	c. 268, § 36
Contribute Delinquency Child	c. 119, § 63
Deliver Articles to Inmate	c. 268, § 31
Deliver Drugs to Prisoner	c. 268, § 28
Deriving Support from Prostitute	c. 272, § 7
Distributing Obscene Pictures	c. 272, § 28
Drug Paraphenelia	c. 94C, § 32I(a)
Enter w/o Brk, Bldg/Shp/M/V, Int Fel, Fear	c. 266, § 17
Enter w/o Brk, Night, Dwell, Intend Comm Felony	c. 266, § 18
Entice Female, Sex, Intercourse	c. 272, § 2
Escape, Furlough	c. 268, § 16
Escape by Prisoner	c. 268, § 16
False Information for Gun Permit	c. 140, § 129
Forgery, Alter Prescription	c. 94C, § 33(b)
Fugitive from Justice	c. 276, § 20A
Induce Prostitution	c. 272, § 6
Induce Sex, Minor	c. 272, § 4
Involuntary Manslaughter	c. 265, § 13
Kidnapping Minor by Relative	c. 265, § 26A
Kidnapping Minor by Relative, Endanger Safety	c. 265, § 26A
Larceny, Bank Employee or Officer	c. 266, § 52
Larceny, Controlled Substance, from Authorized Person	c. 94C, § 37
Larceny Firearm	c. 266, § 30
Larceny, Person	c. 266, § 25
Larceny, Person 65+	c. 266, § 25
Manufacture/Distribute Class A Substance	c. 94C, § 32
Manufacture/Distribute Class B Substance	c. 94C, § 32A
Manufacture/Distribute Class C Substance	c. 94C, § 32B
Manufacture/Distribute Class D Substance	c. 94C, § 32C
Manufacture/Distribute/Dispense Class B Substance	c. 94C, § 32A
Mfg/Dist/Dispense CL A w/in 1000 ft School	c. 94C, § 32J
Mfg/Dist/Dispense CL B w/in 1000 ft School	c. 94C, § 32J
M/V Homicide, Negligent Operation	c. 90, § 24G(b)
M/V Homicide, Reckless Operation	c. 90, § 24G(b)
M/V Homicide, under Influence Drugs, Negligent or Reckless	c. 90, § 24G(a)
M/V Homicide, under Influence Liquor	c. 90, § 24G(b)
M/V Homicide, under Influence Liquor, Negligent or Reckless	c. 90, § 24G(b)
Operate M/V under Influence, Serious Injury	c. 90, § 24(1)(a)(1)
Operate M/V under Influence, Drugs, 3 <sup>rd</sup> Offense	c. 90, § 24(1)(a)(1)
Operate M/V under Influence, Liquor, 3 <sup>rd</sup> Offense	c. 90, § 24
Possess Burglarious Tools	c. 266, § 49
Poss CL A Sub w/int to Dist w/int 1000 ft School	c. 94C, § 32J

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Poss CL B Sub w/int to Dist w/int 1000 ft School	c. 94C, § 32J
Poss CL B Sub w/int to Dist/Mfg/Cult w/in 1000 ft School	c. 94C, § 32J
Possess Class A Substance	c. 94C, § 34
Possess Class A Substance, Intent to Distribute	c. 94C, § 32(a)
Possess Class B Substance	c. 94C, § 34
Possess Class B Substance, Intent to Distribute	c. 94C, § 32A(a)
Possess Class B Substance, w/Intent Dist/Mfg	c. 94C, § 32A
Possess Class C Substance, Intent to Distribute	c. 94C, § 32B(a)
Possess Class C Substance, Sub Offense	c. 94C, § 34
Possess Class D Substance, Intent to Distribute	c. 94C, § 32C(a)
Possess Class D Substance, Sub Offense	c. 94C, § 34
Poss Class D Sub w/int to Dist w/int 1000 ft School	c. 94C, § 32J
Possess Class E Substance, Intent to Distribute	c. 94C, § 32D
Possess Controlled Sub w/Intent Distrib, Sub off	c. 94C, § 32(b)
Possess Firearm w/o License	c. 269, § 10(h)
Possess Firearm, Serial/ID Num Oblit	c. 269, § 11C
Possess Firearm, Serial/ID Num Oblit, Comm Felony	c. 269, § 11B
Possess Infernal Machine	c. 266, § 102A
Possess Machine Gun w/o License	
Possess Machine Gun or Sawed off Shot Gun, Sub Offense	c. 269, § 10d
Possess Matter Harmful Minor	c. 272, § 28
Possess M/V Master Key	c. 266, § 49
Possess Shotgun, Barrel Und 18 "Sawed Off"	c. 269, § 10(c)
Possess Shotgun, Barrel Und 18 "Sawed Off, Sub off	c. 269, § 10d
Receive/Buy Stolen M/V	c. 266, § 28(a)
Sell Ammunition w/o License	c. 140, § 122B
Sell Obscene Literature, under 18	c. 272, § 28
Sell Firearm w/o License	c. 140, § 128
Throw Explosives	c. 266, § 102
Trafficking in Cocaine w/in 1000 ft School	c. 94C, § 32J
Trafficking in Heroin w/in 1000 ft School	c. 94C, § 32J
Trafficking in Marij w/in 1000 ft School	c. 94C, § 32J
Unarmed Assault, Intent to Rob	c. 265, § 20
Unarmed Robbery	c. 265, § 19(b)
Unarmed Robbery, Victim 60+	c. 265, § 19(a)
Unlawful Possession, Bomb	c. 148, § 35
Unlawful Possession, Firearm, Commission Felony	c. 265, § 18B
Unlawfully Place Explosives	c. 266, § 102
Unnatural Acts	c. 272, § 35
Utter False Prescription	c. 94C, § 33
Vandalize Church/Synagogue/Cemetery	c. 266, § 127A
Vandalize School/Church/Educational Bldg	c. 266, § 98
Violate Domestic Protective Order	c. 208, § 34C
Violate Stalking Law	c. 265, § 43(a)
Violation of Protective Order (209a)	c. 209A, § 7

Conspiracy to Commit any of above Offenses

# 104 CMR: DEPARTMENT OF MENTAL HEALTH

Attempts to Commit any Crime in this Category

Accessory Before any Crime in this Category

## Table C

## MGL

A&B	c. 265, § 13A
A&B on Public Servant	c. 265, § 13D
A&B on Police Officer	c. 265, § 13D
A&B or Assault on Correctional Officer	c. 127, § 38B
Abandon w/o Support of Spouse, or Minor Child	c. 273, § 1(1)
Abandon M/V	c. 90, § 22B
Accosting	c. 272, § 53
Adulteration Alcoholic Beverage	c. 138, § 16
Affray	c. 272, § 53
Alien in Possess of Firearm	c. 140, § 131H
Annoying Phone Calls	c. 269, § 14A
Assault	c. 265, § 13A
Attempt to Injure Depository of Valuables	c. 266, § 16
B&E, Intend to Comm Misdemeanor	c. 266, § 16A
B&E Railroad Car	c. 266, § 19
B&E Recognizance Violation	c. 276, § 82A
Being Present Where Heroin Kept	c. 94C, § 35
Civil Rights Violation, No Bodily Injury	c. 265, § 37
Credit Card, Larceny of	c. 266, § 37B
Cruelty to Animals	c. 272, § 77
Discharging Firearm, 500 ft	c. 269, § 12E
Discharging Weapon near Highway/Dwell, Hun	c. 131, § 58
Dispense Controlled Substance, Not Registered	c. 94C, § 25
Distribute Controlled, Substan w/o Prescription	c. 94C, § 25(1)
Engaging in Sex, Prostitution, "John"	c. 272, § 53A
Enter w/o Brk, Truck, Intend Comm Felony	c. 266, § 20A
Fail to Keep Records on Controlled Substance	c. 94C, § 15
Gaming, Implements Found Present, Manager	c. 271, § 17
Gaming, Implements Found Present, Owner	c. 271, § 17
House of Ill Fame	c. 272, § 24
Illegal Possess Class C Substance	c. 94C, § 34
Illegal Possess Class D Substance	c. 94C, § 34
Illegal Possess Class E Substance	c. 94C, § 34
Indecent Exposure	c. 272, § 53
Larceny by Check	c. 266, § 37
Larceny More	c. 266, § 30
Larceny in Bldg, Ship, Vessel, or Rr Car	c. 266, § 20
Larceny in Truck/Trailer	c. 266, § 20B
Larceny, M/V or Trailer	c. 266, § 28
Leave Comm w/o Support Minor Child out of Wdlock	c. 273, § 15
Leave Comm w/o Support of Spouse & Minor Child	c. 273, § 1
Leave Scene after Personal Injury, M/V	c. 90, § 24(2)(a <sup>1</sup> / <sub>2</sub> )(1)

## 104 CMR: DEPARTMENT OF MENTAL HEALTH

Lewd & Lascivious Speech & Behavior	c. 272, § 53
Malicious Destruc, Pers/Real Prop, over \$250	c. 266, § 127
Manufacture/Distribute Class E Substance	c. 94C, § 32D(a)
Non-support of Minor Child out of Wedlock	c. 273, § 15
Non-support of Minor Child(ren)	c. 273, § 1
Obscene Telephone Calls	c. 269, § 14A
Obstruct Justice	c. 268, § 34
Open & Gross Lewdness	c. 272, § 16
Operate M/V After License Revoked For Drunk Driving	c. 90, § 23
Operate M/V under Influence, Drugs	c. 90, § 24(1)(a)(1)
Operate M/V under Influence, Liquor	c. 90, § 24
Possess Altered FID Card	c. 140, § 131I
Possess Counterfeit Subs W/intent Distribute	c. 94C, § 32G
Possess Dangerous Weapon Unlawfully	c. 269, § 10(b)
Possess Hypodermic Syringe or Needle	c. 94C, § 27
Possess Obscene "Pornographic" Material	c. 272, § 29
Procure Liquor for Minor	c. 138, § 34
Prostitution	c. 272, § 53A
Receive Stolen Property, over \$250	c. 266, § 60
Riot	c. 269, § 1
Sell/Deliver Alcoholic Beverages Person under 21	c. 138, § 34
Soliciting Prostitute	c. 272, § 8
Shoplifting, 3 <sup>rd</sup> or Sub Offense	c. 266, § 30A
Sodomy	c. 272, § 34
Taking M/V w/o Authority, Steal Parts	c. 266, § 28
Telecommunications Fraud	c. 166, § 42A
Unauthorized Use, Credit Card, over \$250	c. 266, § 37C
Unlawful Possession, Shotgun	c. 140, § 129C
Unlawfully Obtain Controlled Substance	c. 94C, § 33
Use M/V, Commission of Felony	c. 90, § 24(2)(a)
Utter Forged Instrument	c. 267, § 5
Violate Support Order	c. 273, § 1
Violate Support Order, Minor Child out of Wdlock	c. 273, § 15
Wanton Destruction, Pers/Real Property	c. 272, § 73
Willfully & Maliciously Burn M/V	c. 266, § 127
Willfully & Maliciously Kill Beast	c. 266, § 127
Conspiracy to Commit any of above Offenses	
Attempts to Commit any Crime in This Category	
Accessory Before any Crime in this Category	

## REGULATORY AUTHORITY

104 CMR 34.00: M.G.L. c. 19, § 18 and c. 123, § 2.